

09/09/2003TTAB

TTAB

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

RACETRAC PETROLEUM, INC.,)
)
Opposer,)
)
v.)
)
ETW CORPORATION,)
)
Applicant.)

Opposition No. 117,623

Trademark: RACEWAY and
Design, Serial No. 75/321,745

REQUEST FOR CORRECTION

08-25-2003
U.S. Patent & TMO/TM Mail Report #22

Opposer, in rereading its main brief, notices at page 4 there is an obvious typographic error, which might be left, except that it completely changes the meaning of the sentence, and the fact that it is error is clear within the context of the sentence, and the remainder of the Opposer's brief.

Accordingly, Opposer requests that the attached new page 4, including the correction, be substituted for the page 4 currently on record. Applicant has not answered Opposer's main brief within its period for doing so, and we are presumably within Opposer's reply brief period.

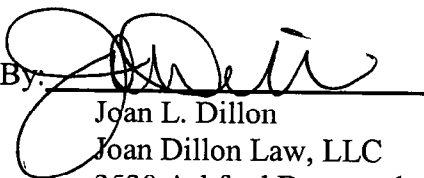
The changed page is changed in only one word. At line 2 of the first paragraph the word "not" is removed. In context the word makes the sentence nonsensical, and further every other reference in the brief indicates that Opposer's position is that tools such as Applicant's are indeed found in convenience stores related to gasoline service stations and that the public would expect to find them there. See, Opposer's brief, page 6, at Summary of Argument, page 8, The Relatedness of the Parties' Goods and Services and the testimony relied upon therein at Hassman's Testimonial Deposition, pages 10, 12 and 13.

09/09/2003 TAB

Opposer regrets the error that has resulted in this request, but hastened to make the record clear as soon as it discovered the error. A copy of this request is being sent to Applicant's counsel.

Respectfully submitted,
RaceTrac Petroleum, Inc.

August 20, 2003

By: 

Joan L. Dillon
Joan Dillon Law, LLC
3530 Ashford Dunwoody Road, PMB 235
Atlanta, Georgia 30319

antifreeze, and...things that people would expect to buy in a place where they can get gasoline." Hassman 12 and 13. The public's expectations are justifiable given that they do find such products in convenience stores, and these include handheld gauges, such as tire pressure gauges and automotive tool sets. Hassman 27, 34. People also expect to receive certain automotive-related services from their gasoline stations, including minor auto repairs, and at Opposer's facilities people come in to check their oil, replace lights, replace windshield wipers and to do related automotive maintenance tasks. Hassman 18.

Both RaceTrac and Raceway stores, at certain periods in their history prior to 1995 and continuing to today, have had displayed on their signage a checkered flag design. Hassman 35. There is a high probability that current Raceway stations and stores carry a checkered design along with the word Raceway, since the checkered flag has, historically, been used at Raceway stations and not all the Raceway stores have been re-imaged to date. Hassman 15. There are currently sister and subsisting RaceTrac stores with the checkered flag design on them. See Hassman 15, "I know for a fact there are RaceTracs out there with a checkered flag on them." There is a high probability that the checkered flag is also used in association with the Raceway stores. Hassman 14.

On July 9, 1997 Applicant, ETW Corporation filed application Serial No. 75/321745 for the mark shown below,



to cover:

09/09/2003 17:45

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

RACETRAC PETROLEUM, INC.,)	
)	Opposition No. 117,623
Opposer,)	
)	
vs.)	Trademark: RACE WAY and
)	Design, Serial No. 75/321,745
ETW CORPORATION,)	
)	
Applicant.)	

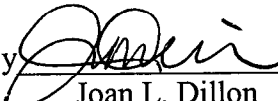
CERTIFICATE OF SERVICE

This is to certify that I have on this date served a copy of the foregoing Request for
Correction on Applicant's counsel by first-class mail, postage prepaid, addressed as follows:

Barbara A. Murphy, Esq.
Adduci, Mastriani & Schaumberg, LLP
1200 Seventeenth Street NW
Fifth Floor
Washington, D.C. 20036

This 20th day of August, 2003.

Respectfully submitted,
JOAN DILLON LAW, LLC

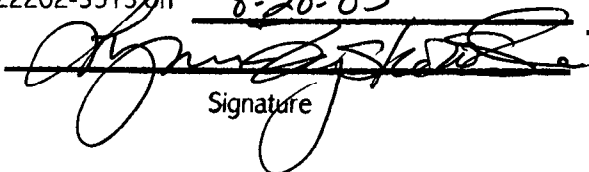
By 
Joan L. Dillon

3530 Ashford Dunwoody Road, PMB 235
Atlanta, GA 30319
Tel: 404 257 1708
Fax: 404 250 1708
Attorney for Opposer
RaceTrac Petroleum, Inc.

I hereby certify that this correspondence is being
deposited with the United States Postal Service
as First Class Mail in an envelope addressed to ^{Box}
The Assistant Commissioner of Patents and ^{NO FEE}
Trademarks, 2900 Crystal Drive, Arlington, VA

22202-3513 on

8-20-03


Signature